



## **STAFF REPORT**

DATE: October 4, 2016

**REGULAR**

ITEM #: 26

**MOTION**

**TO:** Mayor and City Council

**FROM:** Kristina Handt, City Administrator

**AGENDA ITEM:** Council Committee Attendance by Council Members Who Are Not Appointed  
Members of the Committee

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### **BACKGROUND:**

At the June 14, 2016 Finance Committee meeting, Mayor Pearson was sitting in the audience before the meeting started. After prompting from Council Member Smith, I asked him to leave the meeting once Council member Fliflet arrived since we had not posted a quorum. I hadn't known ahead of the meeting that the Mayor would be attending the committee meeting. Following that meeting I had conversations with the Mayor about him attending committee meetings and have subsequently asked him to let me know if he plans to attend a committee meeting he is not a member of so we can post a quorum notice. For consistency purposes, I asked staff to include the same quorum language that has been posted with Parks Commission agendas since at least 2013.

On June 28, 2016, I received an email from Council Member Fliflet providing some history on the issue of Council member attendance at committee meetings. According to Council Member Fliflet, the previous City Attorney had said a quorum of council members should not be present at committee meetings since committees were set to function with 2 appointed Council members. My response to Council member Fliflet was that my past experience had been that a quorum of Council members could attend committee meetings as long as a quorum was posted. She insisted that if I was going to be making a policy change I should bring it to the Council for action.

On June 29, 2016 I asked some of our longest serving staff members that attend Council meetings regularly and who would have been here under the previous city attorney, for a copy of the policy Council member Fliflet had referenced. Staff was unable to find such a policy. Given that there was no policy to bring forward and have amended I continued to operate under my previous understanding of council attendance at committee meetings.

On August 31 and September 2 in reference to the 9/9 Environmental Committee agenda, Council member Fliflet again emailed staff instructing them to remove the notice of a possible quorum. Given that the Mayor had informed me he planned to attend I refused to change the agenda posting. A series of emails occurred from Sept 2-5 on this topic with Council Members Fliflet, Lundgren and Smith all stating that previous council direction to not post a quorum of Council members at a committee meeting should not be overridden. I repeated myself numerous times about the need to post a quorum notice when I knew a quorum was going to be present and did not change the agenda as requested by a majority of the Council.

After receiving an email from "Concerned Resident" about treating staff with respect on September 21, 2016, Council members Fliflet and Lundgren requested this item be placed on the next council agenda.

### **ISSUE BEFORE COUNCIL:**

Can a quorum of Council members attend a committee meeting? If so, should a quorum notice be posted?

**PROPOSAL DETAILS/ANALYSIS:**

Council Member Fliflet indicated this agenda item would be whether or not our new city attorney has a different opinion on our policy than our previous attorney and whether or not she would advise us to change our policy, or perhaps the council can decide whether or not we want to seek an official attorney general legal opinion on the issue.

No policy prohibiting Council member attendance at Committee meetings is included in your packet as I have asked staff and Council Members Fliflet and Lundgren to provide a copy and have not received it as of the writing of this report.

Council member Fliflet mentioned she has done her own research and some cities have policies that are similar to Lake Elmo's. I have asked her for copies and have not been provided with them.

Staff has not asked for a written legal opinion from the current City Attorney as I have not been provided with a policy to have her review. The rising cost of legal fees has been noted multiple times. The most economic and efficient use of legal resources would be to give the attorney a specific item to review. Furthermore, at a lunch meeting between myself, Council Member Fliflet, Attorney Sonsalla and Dan Greensweig on July 26 this issue came up and Attorney Sonsalla commented that in other cities she represents, Council members attend committee meetings when they are interested in a subject.

Information memos available from the League of Minnesota Cities' website, note that a special meeting of the Council needs to be posted if the quorum intends to participate in the discussion and deliberations of the meetings. At all of the committee meetings the Mayor has attended this summer, he has only observed the meeting. So consistent with past practice and the Attorney General's opinion from 1996, staff has been posting the notice of a possible quorum of Council as observers but that no official action will be taken by Council. The Attorney General notes that while this isn't required, it can "be helpful in alerting the public, to the extent they are interested, that Council members might also observe committee meetings."

**FISCAL IMPACT:**

NA